



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

HHS Case No. 2017-01242-FOIA-OS

August 16, 2018

Katie O'Connor
Legal Counsel
Campaign for Accountability
611 Pennsylvania Avenue, S.E., #337
Washington, DC 20003

Dear Ms. O'Connor:

This letter is a second interim response to your September 27, 2017, Freedom of Information Act (FOIA) request. Specifically, you requested the following records:

1. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other documents received by representatives of HHS from, sent by representatives of HHS to, or exchanged between representatives of HHS and representatives of the Susan B. Anthony List, Concerned Women for America, the Heritage Foundation, and/or the Center for Family and Human Rights ("C-Fam") regarding the January 23 presidential memorandum reinstating the Mexico City Policy,¹ or the Department of State's May 15 "Protecting Life in Global Health Assistance" plan implementing the policy.
2. All calendar entries reflecting meetings between representatives of HHS and representatives of the Susan B. Anthony List, Concerned Women for America, the Heritage Foundation, and/or C-Fam regarding the January 23 presidential memorandum reinstating the Mexico City Policy, or the Department of State's May 15 "Protecting Life in Global Health Assistance" plan implementing the policy.
3. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other documents received by representatives of HHS from, sent by representatives of HHS to, or exchanged between representatives of HHS Development, and/or the Trump White House regarding the January 23 presidential memorandum reinstating the Mexico City Policy, or the Department of State's May 15 "Protecting Life in Global Health Assistance" plan implementing the policy.
4. All calendar entries reflecting meetings between representatives of HHS and representatives of the Department of State, the U.S. Agency for International Development, and/or the Trump White House regarding the January 23 presidential memorandum reinstating the Mexico City Policy, or the Department of State's May 15 "Protecting Life in Global Health Assistance" plan implementing the policy. and representatives of the Department of State, the U.S. Agency for International Development, and/or the Trump White House regarding the January 23 presidential memorandum reinstating the Mexico City Policy, or the Department of State's May 15 "Protecting Life in Global Health Assistance" plan implementing the policy.

For this second interim response, the Department has processed 512 pages of potentially responsive records captured in the agency's search. The 512 pages of records referenced

above were subject to a thorough and detailed review by the FOIA Office and I have determined that 443 pages were responsive to your request. Of these 443 responsive pages, I am releasing four (4) pages in part, with portions redacted, pursuant to Exemptions 5 and 6 of the FOIA (5 U.S.C. §552 (b)(5) and (b)(6)). I am also referring 354 pages to the Department of State for review and direct response to you, because those pages contain information originating with the Department of State. Furthermore, I have determined that 85 pages should be sent for consultation to other agencies or offices within this Department and returned to this office for final disposition. Finally, I have determined that 69 pages are either not responsive to your request or are duplicative of pages referenced above.

Further, I am releasing 34 pages referred to this office by the United States Agency for International Development (USAID) to you in their entirety.

FOIA exemption (b)(5) protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. This exemption protects documents that would be covered by any privilege an agency could assert in a civil proceeding. These privileges include, among others, the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege.

FOIA exemption (b)(6) permits a Federal agency to withhold information and records about individuals in "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The definition of "similar files" has historically been broadly interpreted to include a wide variety of files, and the United States Supreme Court has held that Congress intended the term "similar files" to be interpreted broadly, rather than narrowly. I have analyzed these records and find they meet the threshold requirement of this exemption. Additionally, I have reviewed and weighed the public interest in disclosure of this information against the privacy interest in nondisclosure, and found that the privacy interest outweighs the public's interest in disclosure.

We will continue to review the remaining records as efficiently and expeditiously as possible, consistent with our available resources. Should you have questions or concerns regarding the Department's response and/or the processing of your request, any such issues should be communicated to your legal counsel and Department of Justice Attorney representing the Department in this matter.

Sincerely yours,



Michael S. Marquis
Director
Freedom of Information and Privacy Acts Division